

ARMORPOINT TERMS OF SERVICE

BY CLICKING A BOX INDICATING YOUR ACCEPTANCE OF THESE ARMORPOINT TERMS OF SERVICE (THIS "AGREEMENT") OR BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT OR BY OTHERWISE USING OR ACCESSING THE SERVICES (AS DEFINED BELOW) (THE "ACCEPTANCE"), YOU AGREE YOU HAVE READ AND ARE BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THIS AGREEMENT, IN WHICH CASE THE TERM "CUSTOMER" WILL REFER TO SUCH ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THIS AGREEMENT, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE COMPANY PLATFORM.

This Agreement, by and between Customer and ArmorPoint, LLC ("ArmorPoint"), is effective as of the date of Acceptance (the "Effective Date") and governs Customer's use of ArmorPoint's security software-as-a-service, including any software, documentation or data related thereto (the "Services"). Each of ArmorPoint and Customer may be referred to herein individually as a "party" or collectively as "parties".

1. DEFINITIONS

1.1 "**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

1.2 "**Confidential Information**" means any information that is treated as confidential by a party, including, without limitation, trade secrets, technology, information pertaining to business operations and strategies, and information pertaining to customers, pricing, and marketing. Confidential Information shall not include information that: (a) is already known to the Receiving Party without restriction on use or disclosure prior to receipt of such information from the Disclosing Party; (b) is or becomes generally known by the public other than by breach of this Agreement by, or other wrongful act of, the Receiving Party; (c) is developed by the Receiving Party independently of, and without reference to, any Confidential Information of the Disclosing Party; or (d) is received by the Receiving Party from a third party who is not under any obligation to the Disclosing Party to maintain the confidentiality of such information.

1.3 "**Intellectual Property Rights**" means all (a) patents, patent disclosures and inventions (whether patentable or not), (b) trademarks, service marks, trade dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated therewith, (c) copyrights and copyrightable works (including computer programs), and rights in data and databases, (d) trade secrets, know-how and other Confidential Information, and (e) all other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.

1.4 "**Law**" means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any federal, state, local or foreign government or political subdivision thereof, or any arbitrator, court or tribunal of competent jurisdiction.

1.5 "**Order Form**" means an ArmorPoint order form, online order page or other similar document that sets forth the components of the Services to which Customer is obtaining a subscription, applicable subscription Term, pricing therefor and other relevant terms, and that references this Agreement.

1.6 "**Person**" means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association or other entity.

2. SERVICES

2.1 Access to the Services. Subject to the terms and conditions of this Agreement, ArmorPoint shall use commercially reasonable efforts to provide the Services to Customer pursuant to this Agreement, and hereby grants Customer a non-exclusive right to access and use the Services.

2.2 Support; Managing Service. Subject to the terms of this Agreement (and payment of all applicable fees), ArmorPoint will provide customer reasonable technical support and maintenance for the Services in accordance with ArmorPoint's standard practice. If Customer has purchased ArmorPoint's:

- 360 Services (as described at <https://armorpoint.com/360-agreement/>)
- OpenXDR Services (as described at <https://armorpoint.com/openxdr-agreement/>)
- MDR Services (as described at <https://armorpoint.com/mdr-agreement/>)
- Professional and Add-On Services (as described at <https://armorpoint.com/proserv-addons/>)
- Quick Start Implementation Services (as described at <https://armorpoint.com/quickstart-implementation/>)

ArmorPoint shall use reasonable efforts to provide Customer such Services in a professional and workmanlike manner, subject to the terms of this Agreement and the applicable Order Form (including payment of all applicable Services fees).

2.3 Services Provided Through Partner, Managed Service Provider or Reseller. If Customer acquired the Software or Hardware through a Partner, Managed Service Provider or Reseller ("Partner/MSP/Reseller"), Customer acknowledges that: (i) payment and delivery terms for the Software or Hardware must be established separately and independently between the Customer and the Partner/MSP/Reseller; (ii) this Terms of Service constitutes the entire Agreement between the Customer and ArmorPoint regarding the rights and use of the Software, Hardware or Service as described above and is controlling; (iii) the terms and conditions of any Order or any other agreement between the Customer and the Partner/MSP/Reseller are not binding on ArmorPoint; (iv) the Partner/MSP/Reseller is not authorized to alter, amend or modify the terms of this Terms of Service or to otherwise grant any license or other rights relating in any way to the Software, Hardware or Service. Customer further acknowledges that ArmorPoint makes no representation or warranty with regard to any services provided by any Partner/MSP/Reseller, or any actions or failures to act by any Reseller and accepts no liability whatsoever for services provided by Partner/MSP/Reseller.

3. RESTRICTIONS AND RESPONSIBILITIES

3.1 License Restrictions. Customer will only use the Services as expressly permitted herein and in the applicable Order Form. The rights granted herein are subject to the following restrictions (the "**License Restrictions**"). Customer will not directly or indirectly:

- a. reverse engineer, decompile, disassemble, modify, create derivative works of or otherwise create, attempt to create or derive, or permit or assist any third party to create or derive, the source code underlying the Services;
- b. attempt to probe, scan or test the vulnerability of the Services, breach the security or authentication measures of the Services without proper authorization or willfully render any part of the Services unusable;
- c. Customer may test SOC monitoring and response capabilities by staging simulated or actual reconnaissance activity, system, or network attacks, and/or system compromises. Such activities may be initiated directly by Customer or by a contracted third party. Customer shall notify ArmorPoint of testing at least fourteen (14) days in advance of testing with the expectation that analyst activities will not be notified of stated testing. Service Level Agreement will not apply during the period of staged or testing activities.
- d. use or access the Services to develop a product or service that is competitive with the Services or engage in competitive analysis or benchmarking;
- e. transfer, distribute, resell, lease, license, or assign the Services or otherwise offer the Services on a standalone basis; or



- f. otherwise use the Services outside the scope expressly permitted hereunder and in the applicable Order Form.

3.2 ArmorPoint Obligations. ArmorPoint is responsible for all of its personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits.

3.3 Cooperation. Customer acknowledges that ArmorPoint's provision of the Services is dependent on Customer providing all reasonably required cooperation, and Customer will provide all such cooperation in a diligent and timely manner. If ArmorPoint's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Customer or its agents, subcontractors, consultants or employees, then ArmorPoint shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges or losses sustained or incurred by Customer, in each case, to the extent arising directly or indirectly from such prevention or delay.

3.4 Scheduled maintenance means any maintenance that is performed during a scheduled maintenance window or in which Customer is notified at least one day in advance. Notice of scheduled maintenance will be provided to the Customer's Authorized Point of Contact. Emergency maintenance means any non-scheduled, non-standard maintenance required by ArmorPoint. No statement in the section of any Services entitled "Service Level Agreement" shall prevent SOC from conducting emergency maintenance if it is critically necessary for the integrity and security of the Services. During such emergency maintenance, Customer's Authorized Point of Contact will receive notification of initialization of the emergency maintenance, and of the completion of the emergency maintenance. The SOC will be relieved of its obligations under the applicable SLAs during scheduled and emergency maintenance.

Client Responsibilities:

3.5 Equipment. Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, server, software, operating systems, networking, web servers and the like (collectively, "Equipment"). Customer shall also be responsible for maintaining the security of the Equipment, Customer account, passwords (including but not limited to administrative and user passwords) and files, and for all uses of Customer account or the Equipment with or without Customer's knowledge or consent.

3.6 Customer shall provide reasonable assistance to ArmorPoint for performance under this Service Agreement, including helping troubleshoot technical issues within the Customer's environments as well as any services provided by third parties to the client that may affect the delivery of the Services.

3.7 ArmorPoint services are dependent of the connectivity of the tools utilized. Customer is responsible for maintaining a proper Internet connection sized appropriately to handle the load of ArmorPoint tools and monitoring activities on their network and any End Client network supported by the ArmorPoint services.

3.8 Provide ArmorPoint with accurate and up-to-date information including, the name, email, landline, and mobile numbers for all designated authorized Customer's Points(s) of Contact ("POC(s)").

3.9 Notify ArmorPoint at least twenty-four (24) hours in advance of any scheduled maintenance, network or system administration activity that would affect ArmorPoint's ability to perform under this SOW.

3.10 Maintaining current maintenance, supported versions and technical support contracts with Customer's software and hardware vendors for any device affected by this SOW.

3.11 Customer is responsible for maintaining ArmorPoint's products installed on Customer's networks on currently supported versions and monitoring that any EDR endpoint agent stays in an online state.

4. TERM; TERMINATION

4.1 Term. This Agreement shall commence as of the Effective Date and shall continue for one (1) year), after which it will automatically renew for successive one (1) year periods, unless either party provides prior written notice thirty (30) days in advance of the end of the then-current term (the "Term"), or until sooner terminated pursuant to the below.

4.2 Termination. Unless as expressly stated otherwise, either party may terminate this Agreement, effective upon written notice to the other party (the "Defaulting Party"), if the Defaulting party (a) materially breaches this Agreement and such breach is incapable of cure, or with respect to a material breach capable



of cure, the Defaulting Party does not cure such breach within thirty (30) days after receipt of written notice of such breach; or (b) (i) becomes insolvent or admits its inability to pay its debts generally as they become due; (ii) becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (iii) is dissolved or liquidated or takes any corporate action for such purpose; (iv) makes a general assignment for the benefit of creditors; or (v) has a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

4.3 Effects of Termination. Upon expiration or termination of this Agreement for any reason, Customer shall promptly pay all outstanding invoices immediately, and each party shall return to the other party or destroy all Confidential Information of the other party.

4.4 Survival. The rights and obligations of the parties set forth in Sections 1, 2.2, 4, 6, 7, 8, 9, 11, and 12, and any right or obligation of the parties in this Agreement which, by its nature, should survive termination or expiration of this Agreement, will survive.

5. FEES

Customer will pay ArmorPoint the fees set forth in the applicable Order Form. Except as otherwise specified herein or in any applicable Order Form, (a) fees are quoted and payable in United States dollars and (b) payment obligations are non-cancelable and non-pro-ratable for a partial Term, and fees paid are non-refundable, except as expressly set forth herein. All amounts payable hereunder are exclusive of any sales, use and other taxes or duties, however designated (collectively "**Taxes**"). Customer will be solely responsible for payment of all Taxes, except for those taxes based on the income of ArmorPoint. Customer will not withhold any taxes from any amounts due to ArmorPoint.

6. PROPRIETARY RIGHTS; CONFIDENTIALITY

6.1 Proprietary Rights. As between the parties, ArmorPoint exclusively owns all right, title and interest in and to the Services, and ArmorPoint' Confidential Information, and Customer exclusively owns all right, title and interest in and to Customer's Confidential Information.

6.2 Feedback. Customer may from time to time provide ArmorPoint suggestions or comments for enhancements or improvements, new features or functionality or other feedback ("Feedback") with respect to the Services. ArmorPoint will have full discretion to determine whether or not to proceed with the development of any requested enhancements, new features or functionality. ArmorPoint will have the full, unencumbered right, without any obligation to compensate or reimburse Customer, to use, incorporate and otherwise fully exercise and exploit any such Feedback in connection with its products and services.

6.3 Confidentiality. Each party agrees that it will use the Confidential Information of the other party solely in accordance with the provisions of this Agreement and it will not disclose, or permit to be disclosed, the same directly or indirectly, to any third party without the other party's prior written consent, except as otherwise permitted hereunder. However, either party may disclose Confidential Information (a) to its employees, officers, directors, attorneys, auditors, financial advisors and other representatives who have a need to know and are legally bound to keep such information confidential by confidentiality obligations consistent with those of this Agreement; and (b) as required by law (in which case the receiving party will provide the disclosing party with prior written notification thereof, will provide the disclosing party with the opportunity to contest such disclosure, and will use its reasonable efforts to minimize such disclosure to the extent permitted by applicable law. Neither party will disclose the terms of this Agreement to any third party, except that either party may confidentially disclose such terms to actual or potential lenders, investors or acquirers. Each party agrees to exercise due care in protecting the Confidential Information from unauthorized use and disclosure. In the event of actual or threatened breach of the provisions of this Section or the License Restrictions, the non-breaching party will be entitled to seek immediate injunctive and other equitable relief, without waiving any other rights or remedies available to it. Each party will promptly notify the other in writing if it becomes aware of any violations of the confidentiality



6.4 Performance Metrics. Customer further agrees that ArmorPoint has the right to aggregate, collect and analyze data and other information relating to the performance of the Services and shall be free (during and after the Term hereof) to (i) use such data and other information to improve ArmorPoint's products and services, and (ii) disclose such data and other information solely in an aggregated and anonymized format that does not identify Customer or any individual.

7. REPRESENTATIONS AND WARRANTIES; DISCLAIMER

7.1 Mutual Warranties. Each party represents and warrants to the other party that: (a) it is duly organized, validly existing and in good standing as a corporation or other entity as represented herein under the laws and regulations of its jurisdiction of incorporation, organization or chartering; (b) it has the full right, power and authority to enter into this Agreement, to grant the rights and licenses granted hereunder and to perform its obligations hereunder; (c) the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate action of the party; (d) it will comply with all applicable Laws in connection with this Agreement and the Services and (e) when executed and delivered by such party, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms.

7.2 ArmorPoint Warranties. ArmorPoint represents and warrants to Customer that it shall perform the Services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with commercially reasonable industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement.

7.3 Customer Warranties. Customer represents and warrants to ArmorPoint that it has all rights necessary to provide any information, data or other materials that it provides hereunder, and to permit ArmorPoint to use the same as contemplated hereunder.

7.4 DISCLAIMER. EXCEPT FOR THE EXPRESS WARRANTIES IN THIS SECTION, (A) ARMORPOINT HEREBY DISCLAIMS ALL WARRANTIES, EITHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE UNDER THIS AGREEMENT, AND (B) ARMORPOINT SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. ARMORPOINT EXERCISES NO CONTROL OVER, AND ACCEPTS NO RESPONSIBILITY FOR, THE CONTENT OF THE INFORMATION PASSING THROUGH ARMORPOINT'S HOST COMPUTERS, NETWORK HUBS AND POINTS OF PRESENCE, OR THE INTERNET. ALL SERVICES PERFORMED UNDER THIS AGREEMENT ARE PERFORMED "AS IS" AND WITHOUT WARRANTY AGAINST FAILURE OF PERFORMANCE INCLUDING, ANY FAILURE BECAUSE OF COMPUTER HARDWARE OR COMMUNICATION SYSTEMS, EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, AND ANY APPLICABLE ORDER FORM.

8. INDEMNIFICATION

8.1 Indemnification by ArmorPoint. ArmorPoint will defend Customer against any claim, demand, suit, or proceeding ("Claim") made or brought against Customer by a third party alleging that the use of the Services as permitted hereunder infringes or misappropriates a United States patent, copyright or trade secret and will indemnify Customer for any damages finally awarded against (or any settlement approved by ArmorPoint) Customer in connection with any such Claim; provided that (a) Customer will promptly notify ArmorPoint of such Claim, (b) ArmorPoint will have the sole and exclusive authority to defend and/or settle any such Claim (provided that ArmorPoint may not settle any Claim without Customer's prior written consent, which will not be unreasonably withheld, unless it unconditionally releases Customer of all related liability) and (c) Customer reasonably cooperates with ArmorPoint in connection therewith. If the use of the Services by Customer has become, or in ArmorPoint' opinion is likely to become, the subject of any claim of infringement, ArmorPoint may at its option and expense (i) procure for Customer the right to continue using and receiving the Services as set forth hereunder; (ii) replace or modify the Services to



make it non-infringing (with comparable functionality); or (iii) if the options in clauses (i) or (ii) are not reasonably practicable, terminate this Agreement and provide a pro rata refund of any prepaid fees corresponding to the terminated portion of the applicable subscription Term. ArmorPoint will have no liability or obligation with respect to any Claim if such Claim is caused in whole or in part by (A) compliance with designs, guidelines, plans or specifications provided by Customer; (B) use of the Services by Customer not in accordance with this Agreement; (C) modification of the Services by any party other than ArmorPoint without ArmorPoint' express consent; (D) Customer Confidential Information or (E) the combination, operation or use of the Services with other applications, portions of applications, product(s) or services where the Services would not by itself be infringing (clauses (A) through (E), "Excluded Claims"). This Section states ArmorPoint' sole and exclusive liability and obligation, and Customer's exclusive remedy, for any claim of any nature related to infringement or misappropriation of intellectual property.

8.2 Indemnification by Customer. Customer will defend ArmorPoint against any Claim made or brought against ArmorPoint by a third party arising out of the Excluded Claims, and Customer will indemnify ArmorPoint for any damages finally awarded against (or any approved settlement) ArmorPoint in connection with any such Claim; provided that (a) ArmorPoint will promptly notify Customer of such Claim, (b) Customer will have the sole and exclusive authority to defend and/or settle any such Claim (provided that Customer may not settle any Claim without ArmorPoint's prior written consent, which will not be unreasonably withheld, unless it unconditionally releases ArmorPoint of all liability) and (c) ArmorPoint reasonably cooperates with Customer in connection therewith.

9. LIMITATION OF LIABILITY

EXCEPT FOR DAMAGES OR OTHER LIABILITIES ARISING OUT OF OR RELATING TO (A) A PARTY'S BREACH OF CONFIDENTIALITY, (B) A PARTY'S INDEMNIFICATION OBLIGATIONS, OR (C) A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR (1) ANY LOSS OF USE, REVENUE OR PROFIT OR LOSS OF DATA OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR (2) EXCLUDING CUSTOMER'S PAYMENT OBLIGATIONS, ANY DIRECT DAMAGES, COSTS, OR LIABILITIES (IN THE AGGREGATE) IN EXCESS OF THE AMOUNTS PAID OR PAYABLE BY CUSTOMER UNDER THE APPLICABLE ORDER FORM DURING THE TWELVE (12) MONTHS PRECEDING THE INCIDENT OR CLAIM.

10. INSURANCE

ArmorPoint shall maintain all necessary insurance with respect to the Services, including without limitation, commercial general liability (including personal injury and professional liability coverage). A copy of the certificate of insurance must be provided to Customer upon execution of this Agreement.

11. NON-SOLICITATION

During the Term of this Agreement and for a period of twelve (12) months thereafter, neither party shall, directly or indirectly, in any manner solicit or induce for employment any person who performed work under this Agreement who is then in the employment or otherwise engaged with the other party. A general advertisement or job listing shall not be construed as a solicitation under this Section. If either party breaches this Section, the breaching party shall, on demand, pay to the non-breaching party a sum equal to one year's basic salary or the annual fee payable by the claiming party to that employee or independent contractor.

12. GENERAL TERMS

12.1 Force Majeure. Neither party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control including acts of war, acts of God, earthquake,



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flood, embargo, riot, sabotage, labor shortage or dispute, governmental act or failure of the Internet (not resulting from the actions or inactions of ArmorPoint).

12.2 Relationship. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

12.3 Publicity. Neither party shall issue or release any announcement, statement, press release or other publicity or marketing materials relating to this Agreement, or otherwise use the other party's trademarks, service marks, trade names, logos, symbols or brand names, in each case, without the prior written consent of the other party.

12.4 Notice. All notices required or permitted under this Agreement shall be in writing and sent to the recipient's address set forth in the Order Form and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

12.5 Entire Agreement. This Agreement, together with all Order Forms and any other schedules, exhibits, or documents incorporated herein by reference, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any conflict between the terms and provisions of this Agreement and those of any Order Form the terms of this Agreement will govern unless expressly superseded in the Order Form.

12.6 Assignment; Delegation. Neither party may assign, transfer or delegate any or all of its rights or obligations under this Agreement, without the prior written consent of the other party; provided, that, upon prior written notice to the other party, either party may assign the Agreement to an Affiliate of such party or to a successor of all or substantially all of the assets of such party through merger, reorganization, consolidation or acquisition. No assignment shall relieve the assigning party of any of its obligations hereunder. Any attempted assignment, transfer or other conveyance in violation of the foregoing shall be null and void. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

12.7 No Third Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit or remedy of any nature whatsoever, under or by reason of this Agreement.

12.8 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

12.9 Amendment; Waiver. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

12.10 Unenforceability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to affect the original intent of the parties as closely



as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

12.11 Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Arizona without giving effect to any choice or conflict of law provision or rule that would cause the application of Laws of any jurisdiction other than those of the State of Arizona. Any legal suit, action or proceeding arising out of or related to this Agreement or the Services provided hereunder shall be instituted exclusively in the federal courts of the United States or the courts of the State of Arizona in each case located in the city of Phoenix and County of Maricopa, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such party's address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court.

12.12 Waiver of Jury Trial. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

12.13 Equitable Relief. Each party acknowledges that a breach by a party of Section 6 (Proprietary Rights; Confidentiality) may cause the non-breaching party irreparable damages, for which an award of damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the non-breaching party will be entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which the non-breaching party may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Agreement to the contrary.

12.14 Attorney's Fees. In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by either party hereto against the other party arising out of or related to this Agreement, the prevailing party shall be entitled to recover its actual attorneys' fees and court costs from the non-prevailing party.

12.15 Execution. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Revision History

Document Version	Published Date	Description or Notes
5.1	11/30/2022	Added Section 2.3; 3.1.c; 3.4; 3.6 – 3.11 for clarity of client / partner responsibilities for the success of delivery of services.